HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 772 of 2004 (SS)

Amit Kumar s/o Sri Bhim Singh
Village Titauli, P.S. Adarsh Mandi Shamli,
District Muzaffar Nagar ..... Petitioner

Versus

1. State of Uttaranchal
2. Senior Superintendent of Police,
   Dehradun ..... Respondents

Dated: 17.2.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Ramji Srivastava, counsel for the petitioner and Standing Counsel for the respondents.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the order dated 5.5.2004 passed by the respondent no. 2.

Briefly stated according to the petitioner, his father late Sri Bhim Singh was a Constable in Police Department and he was posted in Police Chowki, Laxman Chowk, Dehradun. He died due to heart attack on 6.8.1994. Smt. Kamala Devi wife of the deceased and mother of the petitioner made several applications to the respondent no. 2 for her appointment on compassionate ground but her request was not considered by respondent no. 2. When the petitioner became major on 25.8.2003, his mother again preferred an application to the

respondent no. 2 requesting him to give appointment to the petitioner on compassionate ground. Respondent no. 2 wrote a letter to the mother of the petitioner and required some documents from her. The petitioner completed all the formalities for appointment in the police department on compassionate ground and sent all the required documents to the respondent no. 2. Vide letter dated 1.10.2003, respondent no. 2 informed Smt. Kamla Devi, mother of the petitioner to send the petitioner to his office on any working day for appointment. On 6.10.2003, the respondent no. 2 has passed the order directing the Inspector concerned to submit a report about the physical fitness of the petitioner, who submitted his report on the same day.

On 7.10.2003 the petitioner was medically examined by the Chief Medical Officer, Dehradun and found him medically fit for Government service. The petitioner was waiting for the letter of appointment but on 5.5.2004 respondent no.2 rejected his application on the ground that the appointment on the compassionate ground cannot be granted after five years of the death of Government employee.

Rule 5 of the U.P. Recruitment of Dependents of Government Servants Dying in Harness Rules 1974, provides the entitlement of the petitioner to get the employment. Rule 5 of the said Rules is quoted below:

5. Recruitment of a member of the family of the deceased-*(1) In case a Government servant dies in harness after the commencement of these rules and the spouse of the deceased Government servant is not already employed under the Central Government or a State Government or a Corporation owned or controlled by the Central Government*

or a State Government, one member of his family who is not already employed under the Central Government or a State Government or a Corporation owned or controlled by the Central Government or a State Government Shall, on making an application for the purpose, be given a suitable employment in Government service on a post except the post which is within the purview of the Uttar Pradesh Public Service Commission, in relaxation of the normal recruitment rules if such person-

(i) fulfils the educational qualifications prescribed for the post.

(ii) is otherwise qualified for Government service, and

(i) makes the application for employment within five years from the date of the death of the Government servant.

Provide that where the State Government its satisfied that the time limit fixed for making the application for employment causes undue hardship in any particular case, it may dispense with or relax the requirement, as it may consider necessary for dealing with the case in a just and equitable manner.

Proviso to Rule 5 shows that the State Government may give relaxation with regard to the limitation of five years.

A perusal of the record shows that it is a case, where the mother of the petitioner has applied for appointment on compassionate ground right from the death of her husband. Thereafter the respondent no. 2 assured the petitioner to provide him employment. The petitioner was called in his office by the respondent no. 2 and his physical and medical tests were

also completed but he was not considered. However, his application was rejected on the ground of delay.

Admittedly the mother of the petitioner was not given any appointment and the petitioner was assured to be given the appointment after attaining the majority, the whole purpose of getting the compassionate appointment is being frustrated by the respondents. It is a hard case, where the application of the petitioner for appointment has been rejected without invoking the relaxation clause.

In view of above, respondents are directed to consider the case of the petitioner for appointment on compassionate ground afresh within two months after the receipt of the certified copy of this order.

Accordingly, the writ petition is disposed of. No order as to costs.

Dated: 17.2.2006 **Rajesh Tandon, J.**

*Dhyani